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9 Attorneys for Plaintiffs

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION

13 JUST FILM, INC.; et al.

14 Plaintiffs,

15 v.

16 MERCHANT SERVICES, INC.; et al.,

17 Defendants.

CASE NO. 10-CV-01993-CW

DECLARATION OF KRISTEN G.
SIMPLICIO IN SUPPORT OF PLAINTIFFS'
MOTION FOR CLASS CERTIFICATION

CTRM: Courtroom 2, 4th Floor

REDACTED

1 I, KRISTEN SIMPLICIO, declare as follows:

2 1. I am an attorney at the firm of Gutride Safier LLP, counsel of record for Plaintiffs
3 in this action. I make this declaration of my own personal knowledge, and if called to testify, I
4 could and would competently testify hereto under oath.

5 2. I regularly correspond with Plaintiffs Volker Von Glasenapp, Jerry Su, Verena
6 Baumgartner, Terry Jordan, Lewis Bae, and Erin Campbell. Each has invested significant
7 amounts of time in this lawsuit, staying up to date on the status of the litigation and investigation.
8 In addition, they have responded to sets of interrogatories and document requests propounded by
9 both the Merchant Services Defendants and Leasing Defendants, undertaking in depth reviews of
10 personal and business records in search of responsive information.

11 3. Attached hereto as Exhibit A is a true and correct copy of excerpts from the
12 Deposition of Sam Buono.

13 4. Attached hereto as Exhibit B is a true and correct copy of excerpts from the
14 Deposition of Lina Kravic.

15 5. Attached hereto as Exhibit C is a true and correct copy of excerpts from the
16 Deposition of Dinesh Kulangroth.

17 6. Attached hereto as Exhibit D is a true and correct copy of excerpts from the
18 Deposition of Nathan Jurczyk.

19 7. Attached hereto as Exhibit E is a true and correct copy of a document produced by
20 Defendants.

21 8. Attached hereto as Exhibit F is a true and correct copy of excerpts from the
22 Deposition of Sara Krieger.

23 9. Attached hereto as Exhibit G is a true and correct copy of a document produced by
24 Defendants. This document was previously marked as Exhibit 290.

25 10. Attached hereto as Exhibit H is a true and correct copy of a document produced by
26 Defendants in this case. This document was previously marked as Exhibit 291.

27 11. Attached hereto as Exhibit I is a true and correct copy of a document produced by
28 Defendants in this case. This document was previously marked as Exhibit 96.

- 1 12. Attached hereto as Exhibit J is a true and correct copy of a document produced by
2 Defendants in this case. This document was previously marked as Exhibit 69.
- 3 13. Attached hereto as Exhibit K is a true and correct copy of a document produced by
4 Defendants in this case. This document was previously marked as Exhibit 204.
- 5 14. Attached hereto as Exhibit L is a true and correct copy of a document produced by
6 Defendants. This document was previously marked as Exhibit 137.
- 7 15. Exhibit M is intentionally left blank.
- 8 16. Exhibit N is redacted per this Court's May 10, 2013 Order. [Dkt. # 505]
- 9 17. Attached hereto as Exhibit O is a true and correct copy of a document produced by
10 Defendants in this case. This document was previously marked as Exhibit 276.
- 11 18. Attached hereto as Exhibit P is a true and correct copy of a document produced by
12 Defendants in this case.
- 13 19. Exhibit Q is redacted per this Court's May 10, 2013 Order. [Dkt. # 505]
- 14 20. Attached hereto as Exhibit R is a true and correct copy of a document produced by
15 Defendants in this case. This document was previously marked as Exhibit 233.
- 16 21. Attached hereto as Exhibit S is a true and correct copy of a document produced by
17 Defendants in this case. This document was previously marked as Exhibit 234.
- 18 22. Exhibit T is intentionally left blank. .
- 19 23. Attached hereto as Exhibit U is a true and correct copy of excerpts from the
20 Deposition of Fiona Walshe.
- 21 24. Attached hereto as Exhibit V is a true and correct copy of documents produced by
22 Defendants in this case. This document was previously marked as Exhibit 242.
- 23 25. Attached hereto as Exhibit W is a true and correct copy of a document produced by
24 Plaintiffs in this case. This document was previously marked as Exhibit 279.
- 25 26. Attached hereto as Exhibit X is a true and correct copy of a document produced by
26 Defendants in this case. This document was previously marked as Exhibit 251.
- 27 27. Attached hereto as Exhibit Y is a true and correct copy of a document produced by
28 Defendants in this case. This document was previously marked as Exhibit 317.

1 28. Attached hereto as Exhibit Z is a true and correct copy of documents produced by
2 MasterCard and Visa.

3 29. Attached hereto as Exhibit AA is a true and correct copy of a document produced
4 by Defendants in this case.

5 30. Attached hereto as Exhibit BB is a true and correct copy of a document produced
6 by Defendants in this case.

7 31. Attached hereto as Exhibit CC is an excerpt of a document produced by
8 MasterCard.

9 32. Attached hereto as Exhibit DD is an excerpt of a document produced by
10 MasterCard.

11 33. Attached hereto as Exhibit EE is a true and correct copy of excerpts from the
12 Deposition of Robert Parisi.

13 34. Exhibit FF is redacted per this Court's May 10, 2013 Order. [Dkt. # 505]

14 35. Exhibit GG is redacted per this Court's May 10, 2013 Order. [Dkt. # 505]

15 36. Attached hereto as Exhibit HH is a true and correct copy of a document produced
16 by Defendants in this case. This document was previously marked as Exhibit 329.

17 37. Attached hereto as Exhibit II is a true and correct copy of a document produced by
18 Plaintiffs in this case, bearing the Bates number Dietz00001. This document was previously
19 marked as Exhibit 328.

20 38. Attached hereto as Exhibit JJ is a true and correct copy of a document produced by
21 Defendants in this case. This document was previously marked as Exhibit 364.

22 39. Attached hereto as Exhibit KK is a true and correct copy of excerpts from the
23 Deposition of Alicyn Roy.

24 40. Exhibit LL intentionally left blank.

25 41. Exhibit MM is redacted per this Court's May 10, 2013 Order. [Dkt. # 505]

26 42. Attached hereto as Exhibit NN is a true and correct copy of a document produced
27 by Defendants in this case. This document was previously marked as Exhibit 258.

28 43. Attached hereto as Exhibit OO is a true and correct copy of a document produced

1 by Defendants in this case. This document was previously marked as Exhibit 361.

2 44. Attached hereto as Exhibit PP is a true and correct copy of a document produced by
3 Defendants in this case.. This document was previously marked as Exhibit 325.

4 45. Attached hereto as Exhibit QQ is a true and correct copy of a document produced
5 by Defendants in this case. This document was previously marked as Exhibit 226.

6 46. Attached hereto as Exhibit RR is a true and correct copy of a document produced
7 by Defendants in this case. This document was previously marked as Exhibit 331.

8 47. Attached hereto as Exhibit SS is a true and correct copy of a document produced by
9 Defendants in this case, bearing the Bates number MSI108415.

10 48. Attached hereto as Exhibit TT is a true and correct copy of a document produced
11 by Defendants in this case. This document was previously marked as Exhibit 228.

12 49. Attached hereto as Exhibit UU is a true and correct copy of a document produced
13 by Defendants in this case. This document was previously marked as Exhibit 240.

14 50. Exhibit VV is redacted per this Court's May 10, 2013 Order. [Dkt. # 505]

15 51. Exhibit WW is redacted per this Court's May 10, 2013 Order. [Dkt. # 505]

16 52. Attached hereto as Exhibit XX is a true and correct copy of a document produced
17 by Defendants in this case. This document was previously marked as Exhibit 356.

18 53. Attached hereto as Exhibit YY is a true and correct copy of a document produced
19 by Defendants in this case. This document was previously marked as Exhibit 80.

20 54. Attached hereto as Exhibit ZZ is a true and correct copy of a document produced
21 by Defendants in this case. This document was previously marked as Exhibit 3.

22 55. Attached hereto as Exhibit AAA is a true and correct copy of a document produced
23 by Plaintiffs in this case.

24 56. Attached hereto as Exhibit BBB is a true and correct copy of a document produced
25 by Defendants in this case. This document was previously marked as Exhibit 110.

26 57. Attached hereto as Exhibit CCC is a true and correct copy of a documents produced
27 by Defendants.

28 58. Attached hereto as Exhibit DDD is a true and correct copy of excerpts from the

1 Deposition of Volker Von Glasenapp.

2 59. Exhibit EEE is redacted per this Court's May 10, 2013 Order. [Dkt. # 505]

3 60. Exhibit FFF is redacted per this Court's May 10, 2013 Order. [Dkt. # 505]

4 61. Exhibit GGG is redacted per this Court's May 10, 2013 Order. [Dkt. # 505]

5 62. Attached hereto as Exhibit HHH is a true and correct copy of a document produced
6 by Defendants in this case. This document was previously marked as Exhibit 232.

7 63. Attached hereto as Exhibit III is a true and correct copy of a document produced by
8 Defendants in this case. This document was previously marked as Exhibit 342.

9 64. Exhibit JJJ is redacted per this Court's May 10, 2013 Order. [Dkt. # 505]

10 65. Attached hereto as Exhibit KKK is a true and correct copy of a document produced
11 by Defendants in this case. This document was previously marked as Exhibit 353.

12 66. Attached hereto as Exhibit LLL is a true and correct copy of a document produced
13 by Transfirst LLC in this case. This document was previously marked as Exhibit 354.

14 67. Attached hereto as Exhibit MMM is a true and correct copy of a document
15 produced by Defendants in this case. This document was previously marked as Exhibit 350.

16 68. Attached hereto as Exhibit NNN is a true and correct copy of excerpts from the
17 deposition of Jason Moore.

18 69. Attached hereto as Exhibit PPP is a true and correct copy of excerpts from the
19 deposition of Dinesh Kulangroth.

20 70. Attached hereto as Exhibit QQQ is a true and correct copy of excerpts from the
21 deposition of Steven Berndardone.

22 71. Attached hereto as Exhibit RRR is a true and correct copy of the New York
23 Attorney General's complaint, as produced by Defendants in this case.

24 72. Attached hereto as Exhibit SSS is a true and correct copy of excerpts from the
25 deposition of Jay Cohen.

26 73. Attached hereto as Exhibit TTT is a true and correct copy of a document produced
27 by NACHA. This document was previously marked as Exhibit 302.

28 74. Attached hereto as Exhibit UUU is a true and correct copy of a document produced

1 by ProfitStars/John Henry Corporation. This document was previously marked as Exhibit 300.

2 75. Attached hereto as Exhibit VVV is a true and correct copy of a customer complaint
3 I pulled from the website www.ripoffreport. on August 23, 2012.

4 76. Attached hereto as Exhibit WWW is a true and correct copy of a document
5 produced by Metro Phoenix Bank. This document was previously marked as Exhibit 301.

6 77. Attached hereto as Exhibit XXX is a true and correct copy of a document produced
7 by Metro Phoenix Bank.

8 78. Attached hereto as Exhibit YYY is a true and correct copy of excerpts from the
9 deposition of Jonathan Mirsky.

10 79. Attached hereto as Exhibit ZZZ is a true and correct copy a document produced by
11 Defendants. This document was previously marked as Exhibit 311.

12 80. Attached hereto as Exhibit AAAA is a true and correct copy a document produced
13 by Defendants. This document was previously marked as Exhibit 312.

14 81. Attached hereto as Exhibit BBBB is a true and correct copy a document produced
15 by Defendants. This document was previously marked as Exhibit 313.

16 82. Attached hereto as Exhibit CCCC is a true and correct copy is a true and correct
17 copy of excerpts from the deposition of Cortes Derussy.

18 83. Attached hereto as Exhibit DDDD is a true and correct copy of a document
19 produced by Defendants in this case. This document was previously marked as Exhibit 281.

20 84. Attached hereto as Exhibit EEEE is a true and correct copy of a document produced
21 by Plaintiffs in this case. This document was previously marked as Exhibit 227.

22 85. Attached hereto as Exhibit FFFF is a true and correct copy of a document produced
23 by Defendants in this case. This document was previously marked as Exhibit 92.

24 86. Attached hereto as Exhibit GGGG is a true and correct copy is a true and correct
25 copy of excerpts from the deposition of Jerry Su.

26 87. Attached hereto as Exhibit HHHH is a true and correct copy is a true and correct
27 copy of excerpts from the deposition of Rainbow Business Solutions.

28 88. Attached hereto as Exhibit IIII is a true and correct copy of Jerry Su's Responses to

1 Defendant Merchant Services, Inc.'s First Set of Interrogatories.

2 89. Attached hereto as Exhibit JJJJ is a true and correct copy of Jerry Su's Responses
3 to Defendant Leasing Defendants' First Set of Interrogatories.

4 90. Attached hereto as Exhibit KKKK is a true and correct copy is a true and correct
5 copy of excerpts from the deposition of Verena Baumgartner.

6 91. Attached hereto as Exhibit LLLL is a true and correct copy is a true and correct
7 copy of excerpts from the deposition of Terry Jordan.

8 92. Attached hereto as Exhibit MMMM is a true and correct copy of Terry Jordan's
9 Responses to Defendant Merchant Services, Inc.'s First Set of Interrogatories.

10 93. Attached hereto as Exhibit NNNN is a true and correct copy of a document
11 produced by Defendants in this case. This document was previously marked as exhibit 47.

12 94. Attached hereto as Exhibit OOOO is a true and correct copy of a document
13 produced by Defendants in this case. This document was previously marked as exhibit 12.

14 95. Attached hereto as Exhibit PPPP is a true and correct copy of documents produced
15 by Plaintiffs in this case.

16 96. Attached hereto as Exhibit QQQQ is a true and correct copy of documents
17 produced by Plaintiffs in this case.

18 97. Attached hereto as Exhibit RRRR is a true and correct copy of documents produced
19 by Plaintiffs in this case.

20 98. Attached hereto as Exhibit SSSS is a true and correct copy of documents produced
21 by Transfirst LLC in this case.

22 99. Attached hereto as Exhibit TTTT is a true and correct copy of a document produced
23 by Plaintiffs in this case.

24 100. Attached hereto as Exhibit UUUU is a true and correct copy of a document
25 produced by Plaintiffs in this case.

26 101. Attached hereto as Exhibit VVVV is a true and correct copy of a document
27 produced by Plaintiffs in this case.

28 102. Attached hereto as Exhibit WWWW is a true and correct copy of an except of a

1 document produced by Plaintiffs in this case.

2 103. Attached hereto as Exhibit XXXX is a true and correct copy of Lewis Bae's
3 Responses to Defendant Leasing Defendants' First Set of Interrogatories.

4 104. Attached hereto as Exhibit YYYY is a true and correct copy of a document
5 produced by Plaintiffs in this case.

6 105. Attached hereto as Exhibit ZZZZ is a true and correct copy of documents produced
7 by Plaintiffs in this case. This document was previously marked as Exhibit 282.

8 106. Attached hereto as Exhibit AAAAA is a true and correct copy of documents
9 produced by Plaintiffs in this case. This document was previously marked as Exhibit 298.

10 107. Attached hereto as Exhibit BBBBB is a true and correct copy of documents
11 produced by Defendants in this case. This document was previously marked as Exhibit 299.

12 108. Attached hereto as Exhibit CCCCC is a true and correct excerpt from a document
13 produced by Experian in this case. This document was previously marked as Exhibit 365.

14 109. Attached hereto as Exhibit DDDDD is a true and correct copy of Erin Campbell's
15 Responses to Defendant Leasing Defendants' First Set of Interrogatories.

16 110. Attached hereto as Exhibit EEEEE is a true and correct copy of documents
17 produced by Plaintiffs in this case. This document was previously marked as Exhibit 219.

18 111. Attached hereto as Exhibit FFFFF is a true and correct copy of Plaintiff Campbell's
19 Deposition in Support of Plaintiffs' Motion for Preliminary Injunction.

20 112. . Attached hereto as Exhibit GGGGG is a true and correct copy of excerpts of a
21 document produced by Defendants in this case. It was previously marked as Exhibit 285.

22
23 I declare under penalty of perjury under the law of the United States that the foregoing is
24 true and correct.

25 /s/ Kristen Simplicio
26 May 22, 2013

27
28 Kristen Simplicio, Esq